protection from disclosure of a specific identity of any active or inactive chemical substance for which a notice is received under paragraph (4)(A)(i) or (5)(C)(i) that is not on the confidential portion of the list published under paragraph (1).

"(9) CERTIFICATION.—Under the rule promulgated under this subsection, manufacturers and processors shall be required—

"(A) to certify that each report the manufacturer or processor submits complies with the requirements of the rule, and that any confidentiality claims are true and correct; and

"(B) to retain a record supporting the certification for a period of 5 years beginning on the last day of the submission period.";

(3) in subsection (e)—

(A) by striking "Any person" and inserting the following:

"(1) IN GENERAL.—Any person"; and

(B) by adding at the end the following:

"(2) APPLICABILITY.—Any person may submit to the Administrator information reasonably supporting the conclusion that a chemical substance or mixture presents, will present, or does not present a substantial risk of harm to health and the environment."; and

(4) in subsection (f), by striking "For purposes of this section, the" and inserting the following: "In this section:

"(1) ACTIVE SUBSTANCE.—The term 'active substance' means a chemical substance—

"(A) that has been manufactured or processed for a nonexempt commercial purpose at any point during the 10-year period ending on the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act;

"(B) that is added to the list published under subsection (b)(1) after that date of enactment; or

"(C) for which a notice is received under subsection (b)(5)(C).

"(2) INACTIVE SUBSTANCE.—The term 'inactive substance' means a chemical substance on the list published under subsection (b)(1) that does not meet any of the criteria described in paragraph (1).

"(3) MANUFACTURE; PROCESS.—The".

# SEC. 11. RELATIONSHIP TO OTHER FEDERAL LAWS.

Section 9 of the Toxic Substances Control Act (15 U.S.C. 2608) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the first sentence—

(i) by striking "presents or will present an unreasonable risk to health or the environment" and inserting "does not meet the safety standard"; and

(ii) by striking "such risk" the first place it appears and inserting "the risk posed

by the substance or mixture";

(B) in paragraph (2), in the matter following subparagraph (B), by striking "section 6 or 7" and inserting "section 6(d) or section 7"; and

(C) in paragraph (3), by striking "section 6 or 7" and inserting "section 6(d) or 7";

(2) in subsection (d), in the first sentence, by striking "Health, Education, and Welfare" and inserting "Health and Human Services"; and

(3) by adding at the end the following:

"(e) Exposure Information.—If the Administrator obtains information related to exposures or releases of a chemical substance that may be prevented or reduced under another Federal law, including laws not administered by the Administrator, the Administrator shall make such information available to the relevant Federal agency or office of the Environmental Protection Agency.".

# SEC. 12. RESEARCH, DEVELOPMENT, COLLECTION, DISSEMINATION, AND UTILIZATION OF DATA.

Section 10 of the Toxic Substances Control Act (15 U.S.C. 2609) is amended by striking "Health, Education, and Welfare" each place it appears and inserting "Health and Human Services".

# SEC. 13. EXPORTS.

Section 12 of the Toxic Substances Control Act (15 U.S.C. 2611) is amended—

(1) in subsection (a), by striking paragraph (2) and inserting the following:

"(2) EXCEPTION.—Paragraph (1) shall not apply to any chemical substance that the Administrator determines—

"(A) under section 5 is not likely to meet the safety standard; or

"(B) under section 6 does not meet the safety standard.

"(3) WAIVERS.—For a mixture or article containing a chemical substance described in paragraph (2), the Administrator may—

"(A) determine that paragraph (1) shall not apply to the mixture or article; or

"(B) establish a threshold concentration in a mixture or article at which paragraph (1) shall not apply.

"(4) TESTING.—The Administrator may require testing under section 4 of any chemical substance or mixture exempted from this Act under paragraph (1) for the purpose of determining whether the chemical substance or mixture meets the safety standard within the United States.";

(2) by striking subsection (b) and inserting the following:

"(b) Notice.—

"(1) IN GENERAL.—A person shall notify the Administrator that the person is exporting or

intends to export to a foreign country—

"(A) a chemical substance or a mixture containing a chemical substance that the Administrator has determined under section 5 is not likely to meet the safety standard and for which a prohibition or other restriction has been proposed or established under that section;

"(B) a chemical substance or a mixture containing a chemical substance that the Administrator has determined under section 6 does not meet the safety standard and for which a prohibition or other restriction has been proposed or established under that section;

"(C) a chemical substance for which the United States is obligated by treaty to provide export notification;

"(D) a chemical substance or mixture subject to a prohibition or other restriction pursuant to a rule, order, or consent agreement in effect under this Act; or

"(E) a chemical substance or mixture for which the submission of information is required under section 4.

"(2) RULES.—

"(A) IN GENERAL.—The Administrator shall promulgate rules to carry out paragraph (1).

"(B) CONTENTS.—The rules promulgated pursuant to subparagraph (A) shall—

"(i) include such exemptions as the Administrator determines to be appropriate, which may include exemptions identified under section 5(h); and

"(ii) indicate whether, or to what extent, the rules apply to articles containing a chemical substance or mixture described in paragraph (1).

"(3) NOTIFICATION.—The Administrator shall submit to the government of each country to which a chemical substance or mixture is exported—

"(A) for a chemical substance or mixture described in subparagraph (A), (B), or (D) of paragraph (1), a notice of the determination, rule, order, consent agreement, requirement, or designation;

"(B) for a chemical substance described in paragraph (1)(C), a notice that satisfies the obligation of the United States under the applicable treaty; and

"(C) for a chemical substance or mixture described in paragraph (1)(E), a notice of availability of the information on the chemical substance or mixture submitted to the Administrator."; and

(3) in subsection (c)—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) through (6) as paragraphs (3) through (5), respectively.

# SEC. 14. IMPORTS.

Section 13 of the Toxic Substances Control Act (15 U.S.C. 2612) is amended to read as follows:

# "SEC. 13. IMPORTS.

"(a) Refusal of Entry.—

"(1) IN GENERAL.—The Secretary of Homeland Security shall refuse entry into the customs territory of the United States (as defined in general note 2 to the Harmonized Tariff Schedule of the United States) any chemical substance, mixture, or article containing a chemical substance or mixture offered for such entry, if—

"(A) the Administrator—

"(i) has determined under section 6(c) that the chemical substance or mixture does not meet the safety standard; and

"(ii) has promulgated a rule pursuant to section 6(d) banning the chemical substance or mixture, as of the effective date of the rule;

"(B) the chemical substance—

"(i) is not included on the list under section 8(b)(1); and

"(ii) is not exempt from any requirement to be included on that list by this title or a rule promulgated by the Administrator pursuant to this title; or

"(C) the chemical substance, mixture, or any article containing the chemical substance or mixture is offered for entry in violation of—

"(i) a rule, consent agreement, or order in effect under this Act; or

"(ii) an order issued in a civil action brought under section 7 or title IV.

"(2) PROCEDURE.—

"(A) IN GENERAL.—Subject to subparagraph (B), if a chemical substance, mixture, or article containing a chemical substance or mixture is refused entry under paragraph (1), the Secretary of Homeland Security—

"(i) shall notify the consignee of the entry of the refusal;

"(ii) shall not release the chemical substance or mixture to the consignee; and

"(iii) shall cause the disposal or storage of the chemical substance or mixture under such rules as the Secretary may prescribe, if the chemical substance or mixture has not been exported by the consignee during the 90-day period beginning on the date of receipt of the notice of the refused entry.

"(B) EXCEPTION.—

"(i) IN GENERAL.—The Secretary of Homeland Security, pending a review by the Administrator, may release to the consignee the chemical substance or mixture if the consignee—

"(I) executes a bond for the amount of the full invoice of the chemical substance or mixture (as set forth in the customs entry); and

"(II) pays a duty on the chemical substance or mixture.

"(ii) ADMINISTRATION.—If a consignee fails to return a chemical substance or mixture released to that consignee under clause (i) for any cause to the custody of the Secretary of Homeland Security on demand, the consignee shall be liable to the United States for liquidated damages equal to the full amount of the bond executed under clause (i)(I).

"(C) STORAGE.—All charges for storage, cartage, and labor on or for the disposal of a chemical substance or mixture that is refused entry or released under this subsection shall be paid by the owner or consignee, and a default on that payment shall constitute a lien against any future entry made by the owner or consignee.

"(b) Certification.—

"(1) IN GENERAL.—A person offering a chemical substance or mixture subject to this Act for entry into the customs territory of the United States shall certify to the Secretary of Homeland Security that—

"(A) after reasonable inquiry and to the best knowledge and belief of the person, the chemical substance or mixture is in compliance with any applicable rule, consent agreement, or order under section 5 or 6; and

"(B) the chemical substance—

"(i) is included on the list under section 8(b)(1); or

"(ii) is exempt from any requirement to be included on that list by this title or a rule promulgated by the Administrator pursuant to this title.

"(2) ARTICLES.—

"(A) IN GENERAL.—The Administrator, by rule, may require certification under paragraph (1) for an article containing a chemical substance or mixture that is subject to rule under section 5 or 6.

"(B) REQUIREMENT.—The rule under subparagraph (A) shall identify, with reasonable specificity, the types of articles, including parts or components of articles, that will be subject to the certification requirement.

"(C) FACTORS FOR CONSIDERATION.—In determining the need for and content of a certification rule under this paragraph, the Administrator shall take into consideration—

"(i) the utility of the certification to enforcement of the applicable rule, consent agreement, or order under section 5 or 6;

"(ii) the contribution of imported articles to the potential risk presented by exposure to the chemical substance or mixture subject to rule under section 5 or 6;

"(iii) the impact on commerce and potential for the certification to impede or disrupt import of articles;

"(iv) the frequency or duration of the certification requirement; and

"(v) specification of the concentration of a chemical substance in an article that

would subject the article to the certification requirement.

"(3) REASONABLE INQUIRY.—

"(A) IN GENERAL.—For purposes of a certification under paragraph (1), reasonable inquiry shall include good faith reliance by an importer on—

"(i) a safety data sheet or similar declaration provided by a supplier that documents the specific identity of the chemical substance or the specific identities of all chemical substances in a mixture; or

"(ii) for chemical substances or mixtures claimed by the supplier as confidential, or not otherwise disclosed by the supplier, a certification by the supplier that the imported chemical substance or mixture satisfies the applicable certification requirements under paragraph (1).

"(B) ARTICLES.—For purposes of a certification under paragraph (2), reasonable inquiry shall include good faith reliance by an importer on a certification by the supplier that the imported article satisfies the applicable certification requirements in a rule promulgated pursuant to paragraph (2).

"(4) INFORMATION REGARDING IDENTITY.—For purposes of this subsection, the Administrator shall provide publicly accessible information regarding the identity of a chemical substance or mixture subject to rule under this Act that would be readily understood in import transactions.

"(c) Notice.—A person offering a chemical substance for entry into the customs territory of the United States shall notify the Secretary of Homeland Security if—

"(1) the chemical substance or chemical substance in a mixture is a high-priority substance;

"(2) the chemical substance or chemical substance in a mixture is 1 for which the United States is obligated to provide export notification by treaty; or

"(3) the chemical substance or chemical substance in a mixture—

"(A) is the subject of a safety assessment and safety determination conducted pursuant to section 6; and

"(B) has been found not to meet the safety standard.

"(d) Rules.—

"(1) IN GENERAL.—The Secretary of Homeland Security, after consultation with the Administrator, shall promulgate rules to carry out this section.

"(2) APPLICATION.—The rules under paragraph (1) may modify the application of any requirement of this section, as appropriate for the efficient and effective implementation of this Act.".

# SEC. 15. CONFIDENTIAL INFORMATION.

Section 14 of the Toxic Substances Control Act (15 U.S.C. 2613) is amended to read as follows:

# "SEC. 14. CONFIDENTIAL INFORMATION.

"(a) In General.—Except as otherwise provided in this section, the Administrator shall not disclose information that is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, under subsection (b)(4) of that section—

"(1) that is reported to, or otherwise obtained by, the Administrator under this Act; and

"(2) for which the requirements of subsection (d) are met.

"(b) Information Generally Protected From Disclosure.—The following information specific to, and submitted by, a manufacturer, processor, or distributor that meets the requirements of subsections (a) and (d) shall be presumed to be protected from disclosure, subject to the condition that nothing in this Act prohibits the disclosure of any such information through discovery, subpoena, other court order, or any other judicial process otherwise allowed under applicable Federal or State law:

"(1) Specific information describing the processes used in manufacture or processing of a chemical substance, mixture, or article.

"(2) Marketing and sales information.

"(3) Information identifying a supplier or customer.

"(4) Details of the full composition of a mixture and the respective percentages of constituents.

"(5) Specific information regarding the use, function, or application of a chemical substance or mixture in a process, mixture, or product.

"(6) Specific production or import volumes of the manufacturer and specific aggregated volumes across manufacturers, if the Administrator determines that disclosure of the specific aggregated volumes would reveal confidential information.

"(7) Except as otherwise provided in this section, the specific identity of a chemical substance prior to the date on which the chemical substance is first offered for commercial distribution, including the chemical name, molecular formula, Chemical Abstracts Service number, and other information that would identify a specific chemical substance, if—

"(A) the specific identity was claimed as confidential information at the time it was submitted in a notice under section 5; and

"(B) the claim—

"(i) is not subject to an exception under subsection (e); or

"(ii) has not subsequently been withdrawn or found by the Administrator not to warrant protection as confidential information under subsection (f)(2) or (g).

"(c) Information Not Protected From Disclosure.—Notwithstanding subsections (a) and (b), the following information shall not be protected from disclosure:

"(1) INFORMATION FROM HEALTH AND SAFETY STUDIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), subsection (a) does not prohibit the disclosure of—

"(i) any health and safety study that is submitted under this Act with respect to—

"(I) any chemical substance or mixture that, on the date on which the study is to be disclosed, has been offered for commercial distribution; or

"(II) any chemical substance or mixture for which—

"(aa) testing is required under section 4; or

"(bb) a notification is required under section 5; or

"(ii) any information reported to, or otherwise obtained by, the Administrator from a health and safety study relating to a chemical substance or mixture described in subclause (I) or (II) of clause (i).

"(B) EFFECT OF PARAGRAPH.—Nothing in this paragraph authorizes the release of any information that discloses—

"(i) a process used in the manufacturing or processing of a chemical substance or mixture; or

"(ii) in the case of a mixture, the portion of the mixture comprised by any chemical substance in the mixture.

"(2) CERTAIN REQUESTS.—If a request is made to the Administrator under section 552(a) of title 5, United States Code, for information that is described in paragraph (1) that is not described in paragraph (1)(B), the Administrator may not deny the request on the basis of section 552(b)(4) of title 5, United States Code.

"(3) OTHER INFORMATION NOT PROTECTED FROM DISCLOSURE.—The following information is not protected from disclosure under this section:

"(A) For information submitted after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, the specific identity of a chemical substance as of the date on which the chemical substance is first offered for commercial distribution, if the person submitting the information does not meet the requirements of subsection (d).

"(B) A safety assessment developed, or a safety determination made, under section 6.

"(C) Any general information describing the manufacturing volumes, expressed as specific aggregated volumes or, if the Administrator determines that disclosure of specific aggregated volumes would reveal confidential information, expressed in ranges.

"(D) A general description of a process used in the manufacture or processing and industrial, commercial, or consumer functions and uses of a chemical substance, mixture, or article containing a chemical substance or mixture, including information specific to an industry or industry sector that customarily would be shared with the general public or within an industry or industry sector.

"(4) MIXED CONFIDENTIAL AND NONCONFIDENTIAL INFORMATION .—Any information that is otherwise eligible for protection under this section and contained in a submission of

information described in this subsection shall be protected from disclosure, if the submitter complies with subsection (d), subject to the condition that information in the submission that is not eligible for protection against disclosure shall be disclosed.

"(5) BAN OR PHASE-OUT.—If the Administrator promulgates a rule pursuant to section 6(d) that establishes a ban or phase-out of the manufacture, processing, or distribution in commerce of a chemical substance—

"(A) any protection from disclosure provided under this section with respect to information relating to the chemical substance shall no longer apply; and

"(B) the Administrator promptly shall make the information public.

"(d) Requirements for Confidentiality Claims.—

"(1) ASSERTION OF CLAIMS.—

"(A) IN GENERAL.—A person seeking to protect any information submitted under this Act from disclosure (including information described in subsection (b)) shall assert to the Administrator a claim for protection concurrent with submission of the information, in accordance with such rules regarding a claim for protection from disclosure as the Administrator has promulgated or may promulgate pursuant to this title.

"(B) INCLUSION.—An assertion of a claim under subparagraph (A) shall include a statement that the person has—

"(i) taken reasonable measures to protect the confidentiality of the information;

"(ii) determined that the information is not required to be disclosed or otherwise made available to the public under any other Federal law;

"(iii) a reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of the person; and

"(iv) a reasonable basis to believe that the information is not readily discoverable through reverse engineering.

"(C) SPECIFIC CHEMICAL IDENTITY.—In the case of a claim under subparagraph (A) for protection against disclosure of a specific chemical identity, the claim shall include a structurally descriptive generic name for the chemical substance that the Administrator may disclose to the public, subject to the condition that the generic name shall—

"(i) conform with guidance prescribed by the Administrator under paragraph (3)(A); and

"(ii) describe the chemical structure of the substance as specifically as practicable while protecting those features of the chemical structure—

"(I) that are considered to be confidential; and

"(II) the disclosure of which would be likely to harm the competitive position of the person.

"(D) PUBLIC INFORMATION.—No person may assert a claim under this section for

protection from disclosure of information that is already publicly available.

"(2) ADDITIONAL REQUIREMENTS FOR CONFIDENTIALITY CLAIMS.—Except for information described in paragraphs (1) through (7) of subsection (b), a person asserting a claim to protect information from disclosure under this Act shall substantiate the claim, in accordance with the rules promulgated and guidance issued by the Administrator.

"(3) GUIDANCE.—The Administrator shall develop guidance regarding—

"(A) the determination of structurally descriptive generic names, in the case of claims for the protection against disclosure of specific chemical identity; and

"(B) the content and form of the statements of need and agreements required under paragraphs (4), (5), and (6) of subsection (e).

"(4) CERTIFICATION.—An authorized official of a person described in paragraph (1)(A) shall certify that the information that has been submitted is true and correct.

"(e) Exceptions to Protection From Disclosure.—Information described in subsection (a) shall be disclosed if—

"(1) the information is to be disclosed to an officer or employee of the United States in connection with the official duties of the officer or employee—

"(A) under any law for the protection of health or the environment; or

"(B) for a specific law enforcement purpose;

"(2) the information is to be disclosed to a contractor of the United States and employees of that contractor—

"(A) if, in the opinion of the Administrator, the disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States for the performance of work in connection with this Act; and

"(B) subject to such conditions as the Administrator may specify;

"(3) the Administrator determines that disclosure is necessary to protect health or the environment;

"(4) the information is to be disclosed to a State or political subdivision of a State, on written request, for the purpose of development, administration, or enforcement of a law, if—

"(A) 1 or more applicable agreements with the Administrator that conform with the guidance issued under subsection (d)(3)(B) ensure that the recipient will take appropriate measures, and has adequate authority, to maintain the confidentiality of the information in accordance with procedures comparable to the procedures used by the Administrator to safeguard the information; and

"(B) the Administrator notifies the person that submitted the information that the information has been disclosed to the State or political subdivision of a State;

"(5) a health or environmental professional employed by a Federal or State agency or a treating physician or nurse in a nonemergency situation provides a written statement of need and agrees to sign a written confidentiality agreement with the Administrator, subject to the

conditions that—

"(A) the statement of need and confidentiality agreement shall conform with the guidance issued under subsection (d)(3)(B);

"(B) the written statement of need shall be a statement that the person has a reasonable basis to suspect that—

"(i) the information is necessary for, or will assist in—

"(I) the diagnosis or treatment of 1 or more individuals; or

"(II) responding to an environmental release or exposure; and

"(ii) 1 or more individuals being diagnosed or treated have been exposed to the chemical substance concerned, or an environmental release or exposure has occurred; and

"(C) the confidentiality agreement shall provide that the person will not use the information for any purpose other than the health or environmental needs asserted in the statement of need, except as otherwise may be authorized by the terms of the agreement or by the person submitting the information to the Administrator, except that nothing in this Act prohibits the disclosure of any such information through discovery, subpoena, other court order, or any other judicial process otherwise allowed under applicable Federal or State law;

"(6) in the event of an emergency, a treating physician, nurse, agent of a poison control center, public health or environmental official of a State or political subdivision of a State, or first responder (including any individual duly authorized by a Federal agency, State, or political subdivision of a State who is trained in urgent medical care or other emergency procedures, including a police officer, firefighter, or emergency medical technician) requests the information, subject to the conditions that—

"(A) the treating physician, nurse, agent, public health or environmental official of a State or a political subdivision of a State, or first responder shall have a reasonable basis to suspect that—

"(i) a medical or public health or environmental emergency exists;

"(ii) the information is necessary for, or will assist in, emergency or first-aid diagnosis or treatment; or

"(iii) 1 or more individuals being diagnosed or treated have likely been exposed to the chemical substance concerned, or a serious environmental release of or exposure to the chemical substance concerned has occurred;

"(B) if requested by the person submitting the information to the Administrator, the treating physician, nurse, agent, public health or environmental official of a State or a political subdivision of a State, or first responder shall, as described in paragraph (5)—

"(i) provide a written statement of need; and

"(ii) agree to sign a confidentiality agreement; and

"(C) the written confidentiality agreement or statement of need shall be submitted as soon as practicable, but not necessarily before the information is disclosed;

"(7) the Administrator determines that disclosure is relevant in a proceeding under this Act, subject to the condition that the disclosure shall be made in such a manner as to preserve confidentiality to the maximum extent practicable without impairing the proceeding;

"(8) the information is to be disclosed, on written request of any duly authorized congressional committee, to that committee; or

"(9) the information is required to be disclosed or otherwise made public under any other provision of Federal law.

"(f) Duration of Protection From Disclosure.—

"(1) IN GENERAL.—

"(A) INFORMATION PROTECTED FROM DISCLOSURE.—Subject to paragraph (2), the Administrator shall protect from disclosure information that meets the requirements of subsection (d) for a period of 10 years, unless, prior to the expiration of the period—

"(i) an affected person notifies the Administrator that the person is withdrawing the confidentiality claim, in which case the Administrator shall promptly make the information available to the public; or

"(ii) the Administrator otherwise becomes aware that the need for protection from disclosure can no longer be substantiated, in which case the Administrator shall take the actions described in subsection (g)(2).

"(B) EXTENSIONS.—

"(i) IN GENERAL.—Not later than the date that is 60 days before the expiration of the period described in subparagraph (A), the Administrator shall provide to the person that asserted the claim a notice of the impending expiration of the period.

"(ii) STATEMENT.—

"(I) IN GENERAL.—Not later than the date that is 30 days before the expiration of the period described in subparagraph (A), a person reasserting the relevant claim shall submit to the Administrator a statement substantiating, in accordance with subsection (d)(2), the need to extend the period.

"(II) ACTION BY ADMINISTRATOR.—Not later than the date that is 30 days after the date of receipt of a statement under subclause (I), the Administrator shall—

"(aa) review the request;

"(bb) make a determination regarding whether the information for which the request is made continues to meet the relevant criteria established under this section; and

"(cc)(AA) grant an extension of not more than 10 years; or

"(BB) deny the claim.

"(C) NO LIMIT ON NUMBER OF EXTENSIONS.—There shall be no limit on the number of extensions granted under subparagraph (B), if the Administrator determines that the relevant statement under subparagraph (B)(ii)(I)—

"(i) establishes the need to extend the period; and

"(ii) meets the requirements established by the Administrator.

"(2) REVIEW AND RESUBSTANTIATION.—

"(A) DISCRETION OF ADMINISTRATOR.—The Administrator may review, at any time, a claim for protection against disclosure under subsection (a) for information submitted to the Administrator regarding a chemical substance and require any person that has claimed protection for that information, whether before, on, or after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to withdraw or reassert and substantiate or resubstantiate the claim in accordance with this section—

"(i) after the chemical substance is identified as a high-priority substance under section 4A;

"(ii) for any chemical substance for which the Administrator has made a determination under section 6(c)(1)(C);

"(iii) for any inactive chemical substance identified under section 8(b)(5); or

"(iv) in limited circumstances, if the Administrator determines that disclosure of certain information currently protected from disclosure would assist the Administrator in conducting safety assessments and safety determinations under subsections (b) and (c) of section 6 or promulgating rules pursuant to section 6(d), subject to the condition that the information shall not be disclosed unless the claimant withdraws the claim or the Administrator determines that the information does not meet the requirements of subsection (d).

"(B) REVIEW REQUIRED.—The Administrator shall review a claim for protection from disclosure under subsection (a) for information submitted to the Administrator regarding a chemical substance and require any person that has claimed protection for that information, whether before, on, or after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to withdraw or reassert and substantiate or resubstantiate the claim in accordance with this section—

"(i) as necessary to comply with a request for information received by the Administrator under section 552 of title 5, United States Code;

"(ii) if information available to the Administrator provides a basis that the requirements of section 552(b)(4) of title 5, United States Code, are no longer met; or

"(iii) for any substance for which the Administrator has made a determination under section 6(c)(1)(B).

"(C) ACTION BY RECIPIENT.—If the Administrator makes a request under subparagraph (A) or (B), the recipient of the request shall—

"(i) reassert and substantiate or resubstantiate the claim; or

"(ii) withdraw the claim.

"(D) PERIOD OF PROTECTION.—Protection from disclosure of information subject to a claim that is reviewed and approved by the Administrator under this paragraph shall be extended for a period of 10 years from the date of approval, subject to any subsequent request by the Administrator under this paragraph.

"(3) UNIQUE IDENTIFIER.—The Administrator shall—

"(A)(i) develop a system to assign a unique identifier to each specific chemical identity for which the Administrator approves a request for protection from disclosure, other than a specific chemical identity or structurally descriptive generic term; and

"(ii) apply that identifier consistently to all information relevant to the applicable chemical substance;

"(B) annually publish and update a list of chemical substances, referred to by unique identifier, for which claims to protect the specific chemical identity from disclosure have been approved, including the expiration date for each such claim;

"(C) ensure that any nonconfidential information received by the Administrator with respect to such a chemical substance during the period of protection from disclosure—

"(i) is made public; and

"(ii) identifies the chemical substance using the unique identifier; and

"(D) for each claim for protection of specific chemical identity that has been denied by the Administrator on expiration of the period for appeal under subsection (g)(3), that has expired, or that has been withdrawn by the submitter, provide public access to the specific chemical identity clearly linked to all nonconfidential information received by the Administrator with respect to the chemical substance.

"(g) Duties of Administrator.—

"(1) DETERMINATION.—

"(A) IN GENERAL.—Except as provided in subsection (b), the Administrator shall, subject to subparagraph (C), not later than 90 days after the receipt of a claim under subsection (d), and not later than 30 days after the receipt of a request for extension of a claim under subsection (f), review and approve, modify, or deny the claim or request.

"(B) DENIAL OR MODIFICATION.—

"(i) IN GENERAL.—Except as provided in subsections (c) and (f), the Administrator shall deny a claim to protect a chemical identity from disclosure only if the person that has submitted the claim fails to meet the requirements of subsections (a) and (d).

"(ii) REASONS FOR DENIAL OR MODIFICATION.—The Administrator shall provide to a person that has submitted a claim described in clause (i) a written statement of the reasons for the denial or modification of the claim.

"(C) SUBSETS.—The Administrator shall—

"(i) except for claims described in subsection (b)(7), review all claims under this section for the protection against disclosure of the specific identity of a chemical substance; and

"(ii) review a representative subset, comprising at least 25 percent, of all other claims for protection against disclosure.

"(D) EFFECT OF FAILURE TO ACT.—The failure of the Administrator to make a decision regarding a claim for protection against disclosure or extension under this section shall not be the basis for denial or elimination of a claim for protection against disclosure.

"(2) NOTIFICATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and subsections (c), (e), and (f), if the Administrator denies or modifies a claim under paragraph (1), the Administrator shall notify, in writing and by certified mail, the person that submitted the claim of the intent of the Administrator to release the information.

"(B) RELEASE OF INFORMATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Administrator shall not release information under this subsection until the date that is 30 days after the date on which the person that submitted the request receives notification under subparagraph (A).

"(ii) EXCEPTIONS.—

"(I) IN GENERAL.—For information under paragraph (3) or (8) of subsection (e), the Administrator shall not release that information until the date that is 15 days after the date on which the person that submitted the claim receives a notification, unless the Administrator determines that release of the information is necessary to protect against an imminent and substantial harm to health or the environment, in which case no prior notification shall be necessary.

"(II) NO NOTIFICATION.—For information under paragraph (1), (2), (6), (7), or (9) of subsection (e), no prior notification shall be necessary.

"(3) APPEALS.—

"(A) IN GENERAL.—If a person receives a notification under paragraph (2) and believes disclosure of the information is prohibited under subsection (a), before the date on which the information is to be released, the person may bring an action to restrain disclosure of the information in—

"(i) the United States district court of the district in which the complainant resides or has the principal place of business; or

"(ii) the United States District Court for the District of Columbia.

"(B) NO DISCLOSURE.—The Administrator shall not disclose any information that is the subject of an appeal under this section before the date on which the applicable court rules on an action under subparagraph (A).

"(4) ADMINISTRATION.—In carrying out this subsection, the Administrator shall use the procedures described in part 2 of title 40, Code of Federal Regulations (or successor regulations).

"(h) Criminal Penalty for Wrongful Disclosure.—

"(1) OFFICERS AND EMPLOYEES OF UNITED STATES.—

"(A) IN GENERAL.—Subject to paragraph (2), a current or former officer or employee of the United States described in subparagraph (B) shall be guilty of a misdemeanor and fined under title 18, United States Code, or imprisoned for not more than 1 year, or both.

"(B) DESCRIPTION.—A current or former officer or employee of the United States referred to in subparagraph (A) is a current or former officer or employee of the United States who—

"(i) by virtue of that employment or official position has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (a); and

"(ii) knowing that disclosure of that material is prohibited by subsection (a), willfully discloses the material in any manner to any person not entitled to receive that material.

"(2) OTHER LAWS.—Section 1905 of title 18, United States Code, shall not apply with respect to the publishing, divulging, disclosure, making known of, or making available, information reported or otherwise obtained under this Act.

"(3) CONTRACTORS.—For purposes of this subsection, any contractor of the United States that is provided information in accordance with subsection (e)(2), including any employee of that contractor, shall be considered to be an employee of the United States.

"(i) Applicability.—

"(1) IN GENERAL.—Except as otherwise provided in this section, section 8, or any other applicable Federal law, the Administrator shall have no authority—

"(A) to require the substantiation or resubstantiation of a claim for the protection from disclosure of information submitted to the Administrator under this Act before the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act; or

"(B) to impose substantiation or resubstantiation requirements under this Act that are more extensive than those required under this section.

"(2) PRIOR ACTIONS.—Nothing in this Act prevents the Administrator from reviewing, requiring substantiation or resubstantiation for, or approving, modifying or denying any claim for the protection from disclosure of information before the effective date of such rules applicable to those claims as the Administrator may promulgate after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act.".

# SEC. 16. PROHIBITED ACTS.

Section 15 of the Toxic Substances Control Act (15 U.S.C. 2614) is amended by striking paragraph (1) and inserting the following:

"(1) fail or refuse to comply with—

"(A) any rule promulgated, consent agreement entered into, or order issued under section 4;

"(B) any requirement under section 5 or 6;

"(C) any rule promulgated, consent agreement entered into, or order issued under section 5 or 6; or

"(D) any requirement of, or any rule promulgated or order issued pursuant to title II;".

# SEC. 17. PENALTIES.

Section 16 of the Toxic Substances Control Act (15 U.S.C. 2615) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence—

(i) by inserting "this Act or a rule or order promulgated or issued pursuant to this Act, including" after "a provision of"; and

(ii) by striking "$25,000" and inserting "$37,500"; and

(B) in the second sentence, by striking" violation of section 15 or 409" and inserting "violation of this Act"; and

(2) in subsection (b)—

(A) by striking "Any person who" and inserting the following:

"(1) IN GENERAL.—Any person that";

(B) by striking "section 15 or 409" and inserting "this Act";

(C) by striking "$25,000" and inserting "$50,000"; and

(D) by adding at the end the following:

"(2) IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY.—

"(A) IN GENERAL.—Any person that knowingly or willfully violates any provision of this Act, and that knows at the time of the violation that the violation places an individual in imminent danger of death or serious bodily injury, shall be subject on conviction to a fine of not more than $250,000, or imprisonment for not more than 15 years, or both.

"(B) ORGANIZATIONS.—An organization that commits a violation described in subparagraph (A) shall be subject on conviction to a fine of not more than $1,000,000 for each violation.

"(3) KNOWLEDGE OF IMMINENT DANGER OR INJURY.—For purposes of determining whether a defendant knew that the violation placed another individual in imminent danger

of death or serious bodily injury—

"(A) the defendant shall be responsible only for actual awareness or actual belief possessed; and

"(B) knowledge possessed by an individual may not be attributed to the defendant.".

# SEC. 18. STATE-FEDERAL RELATIONSHIP.

Section 18 of the Toxic Substances Control Act (15 U.S.C. 2617) is amended by striking subsections (a) and (b) and inserting the following:

"(a) In General.—

"(1) ESTABLISHMENT OR ENFORCEMENT.—Except as provided in subsections (c), (d), (e), (f), and (g), and subject to paragraph (2), no State or political subdivision of a State may establish or continue to enforce any of the following:

"(A) TESTING AND INFORMATION COLLECTION.—A statute or administrative action to require the development of information on a chemical substance or category of substances that is reasonably likely to produce the same information required under section 4, 5, or 6 in—

"(i) a rule promulgated by the Administrator;

"(ii) a testing consent agreement entered into by the Administrator; or

"(iii) an order issued by the Administrator.

"(B) CHEMICAL SUBSTANCES FOUND TO MEET THE SAFETY STANDARD OR RESTRICTED.—A statute or administrative action to prohibit or otherwise restrict the manufacture, processing, or distribution in commerce or use of a chemical substance—

"(i) found to meet the safety standard and consistent with the scope of the determination made under section 6; or

"(ii) found not to meet the safety standard, after the effective date of the rule issued under section 6(d) for the substance, consistent with the scope of the determination made by the Administrator.

"(C) SIGNIFICANT NEW USE.—A statute or administrative action requiring the notification of a use of a chemical substance that the Administrator has specified as a significant new use and for which the Administrator has required notification pursuant to a rule promulgated under section 5.

"(2) EFFECTIVE DATE OF PREEMPTION.—Under this subsection, Federal preemption of State statutes and administrative actions applicable to specific substances shall not occur until the effective date of the applicable action described in paragraph (1) taken by the Administrator.

"(b) New Statutes or Administrative Actions Creating Prohibitions or Other Restrictions.—Except as provided in subsections (c), (d), and (e), no State or political subdivision of a State may establish (after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act) a statute or administrative action prohibiting or restricting the manufacture, processing, distribution in commerce or use of a chemical substance that is a high-priority

substance designated under section 4A, as of the date on which the Administrator commences a safety assessment under section 6.

"(c) Scope of Preemption.—Federal preemption under subsections (a) and (b) of State statutes and administrative actions applicable to specific substances shall apply only to—

"(1) the chemical substances or category of substances subject to a rule, order, or consent agreement under section 4;

"(2) the uses or conditions of use of such substances that are identified by the Administrator as subject to review in a safety assessment and included in the scope of the safety determination made by the Administrator for the substance, or of any rule the Administrator promulgates pursuant to section 6(d); or

"(3) the uses of such substances that the Administrator has specified as significant new uses and for which the Administrator has required notification pursuant to a rule promulgated under section 5.

"(d) Exceptions.—

"(1) IN GENERAL.—Subsections (a) and (b) shall not apply to a statute or administrative action of a State or a political subdivision of a State applicable to a specific chemical substance that—

"(A) is adopted under the authority of, or authorized to comply with, any other Federal law;

"(B) implements a reporting, monitoring, or other information collection obligation for the chemical substance not otherwise required by the Administrator under this Act or required under any other Federal law; or

"(C) is adopted pursuant to authority under a law of the State or political subdivision of the State related to water quality, air quality, or waste treatment or disposal, unless the action taken by the State or political subdivision of a State—

"(i) imposes a restriction on the manufacture, processing, distribution in commerce, or use of a chemical substance; and

"(ii)(I) is already required by a decision by the Administrator under section 5 or 6;

"(II) is taken to address a health or environmental concern that applies to the uses or conditions of use that are included in the scope of a safety determination pursuant to section 6 or the scope of a significant new use rule promulgated pursuant to section 5, but is inconsistent with the action of the Administrator; or

"(III) would cause a violation of the applicable action by the Administrator under section 5 or 6.

"(2) NO PREEMPTION OF STATE STATUTES AND ADMINISTRATIVE ACTIONS.—Nothing in this Act, nor any amendment made by this Act, nor any rule, standard of performance, safety determination, or scientific assessment implemented pursuant to this Act, shall affect the right of a State or a political subdivision of a State to adopt or enforce any rule, standard of performance, safety determination, scientific assessment, or any protection for public

health or the environment that—

"(A) is adopted under the authority of, or authorized to comply with, any other Federal law;

"(B) implements a reporting, monitoring, or other information collection obligation for the chemical substance not otherwise required by the Administrator under this Act or required under any other Federal law; or

"(C) is adopted pursuant to authority under a law of the State or political subdivision of the State related to water quality, air quality, or waste treatment or disposal, unless the action taken by the State or political subdivision of a State—

"(i) imposes a restriction on the manufacture, processing, distribution in commerce, or use of a chemical substance; and

"(ii)(I) is already required by a decision by the Administrator under section 5 or 6;

"(II) is taken to address a health or environmental concern that applies to the uses or conditions of use that are included in the scope of a safety determination pursuant to section 6 or the scope of a significant new use rule promulgated pursuant to section 5, but is inconsistent with the action of the Administrator; or

"(III) would cause a violation of the applicable action by the Administrator under section 5 or 6.

"(3) APPLICABILITY TO CERTAIN RULES OR ORDERS.—Notwithstanding subsection (e)—

"(A) nothing in this section shall be construed as modifying the effect under this section, as in effect on the day before the effective date of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, of any rule or order promulgated or issued under this Act prior to that effective date; and

"(B) with respect to a chemical substance or mixture for which any rule or order was promulgated or issued under section 6 prior to the effective date of the Frank R. Lautenberg Chemical Safety for the 21st Century Act with regards to manufacturing, processing, distribution in commerce, use, or disposal of a chemical substance, this section (as in effect on the day before the effective date of the Frank R. Lautenberg Chemical Safety for the 21st Century Act) shall govern the preemptive effect of any rule or order that is promulgated or issued respecting such chemical substance or mixture under section 6 of this Act after that effective date, unless the latter rule or order is with respect to a chemical substance or mixture containing a chemical substance and follows a designation of that chemical substance as a high-priority substance under subsection (b) or (c) of section 4A or as an additional priority for safety assessment and safety determination under section 4A(d).

"(e) Preservation of Certain State Law.—

"(1) IN GENERAL.—Nothing in this Act, subject to subsection (g) of this section, shall—

"(A) be construed to preempt or otherwise affect any action taken before January 1, 2015, under the authority of a State law that prohibits or otherwise restricts manufacturing, processing, distribution in commerce, use, or disposal of a chemical

substance; or

"(B) be construed to preempt or otherwise affect any action taken pursuant to a State law that was in effect on August 31, 2003.

"(2) EFFECT OF SUBSECTION.—This subsection does not affect, modify, or alter the relationship between State and Federal law pursuant to any other Federal law.

"(f) State Waivers.—

"(1) IN GENERAL.—Upon application of a State or political subdivision of a State, the Administrator may—

"(A) by rule, exempt from subsection (a), under such conditions as may be prescribed in the rule, a statute or administrative action of that State or political subdivision of the State that relates to the effects of, or exposure to, a chemical substance under the conditions of use if the Administrator determines that—

"(i) compelling State or local conditions warrant granting the waiver to protect health or the environment;

"(ii) compliance with the proposed requirement of the State or political subdivision of the State would not unduly burden interstate commerce in the manufacture, processing, distribution in commerce, or use of a chemical substance;

"(iii) compliance with the proposed requirement of the State or political subdivision of the State would not cause a violation of any applicable Federal law, rule, or order; and

"(iv) based on the judgment of the Administrator, the proposed requirement of the State or political subdivision of the State is consistent with sound objective scientific practices, the weight of the evidence, and the best available science; or

"(B) exempt from subsection (b) a statute or administrative action of a State or political subdivision of a State that relates to the effects of exposure to a chemical substance under the conditions of use if the Administrator determines that—

"(i) the State has a compelling local interest that warrants granting the waiver to protect health or the environment;

"(ii) compliance with the proposed requirement of the State will not unduly burden interstate commerce in the manufacture, processing, distribution in commerce, or use of a chemical substance;

"(iii) compliance with the proposed requirement would not cause a violation of any applicable Federal law, rule, or order; and

"(iv) the proposed requirement is grounded in reasonable scientific concern.

"(2) APPROVAL OF A STATE WAIVER REQUEST.—The Administrator shall grant or deny a waiver application—

"(A) not later than 180 days after the date on which an application under paragraph (1)(A) is submitted; and

"(B) not later than 90 days after the date on which an application under paragraph (1)(B) is submitted.

"(3) NOTICE AND COMMENT.—The application of a State or political subdivision of the State shall be subject to public notice and comment.

"(4) FINAL AGENCY ACTION.—The decision of the Administrator on the application of a State or political subdivision of the State shall be—

"(A) considered to be a final agency action; and

"(B) subject to judicial review.

"(5) DURATION OF WAIVERS.—A waiver granted under paragraph (1)(B) shall remain in effect until the later of—

"(A) such time as the safety assessment and safety determination is completed; and

"(B) the date on which compliance with an applicable rule issued under section 6(d) is required.

"(6) JUDICIAL REVIEW OF WAIVERS.—Not later than 60 days after the date on which the Administrator makes a determination on an application of a State or political subdivision of the State under subparagraph (A) or (B) of paragraph (1), any person may file a petition for judicial review in the United States Court of Appeals for the District of Columbia Circuit, which shall have exclusive jurisdiction over the determination.

"(7) JUDICIAL REVIEW OF PRIORITIZATION SCREENING DECISION.—Not later than 60 days after the date on which the Administrator makes a decision on a recommendation made under section 4A(b)(4) to designate a chemical substance as a low priority, the Governor of a State or a State agency with responsibility for protecting health and the environment that submitted the recommendation under section 4A(a)(4)(A), as applicable, may file a petition for judicial review in the United States Court of Appeals for the District of Columbia Circuit, which shall have exclusive jurisdiction over the determination.

"(g) Savings.—

"(1) NO PREEMPTION OF COMMON LAW OR STATUTORY CAUSES OF ACTION FOR CIVIL RELIEF OR CRIMINAL CONDUCT.—

"(A) IN GENERAL.—Nothing in this Act, nor any amendment made by this Act, nor any safety standard, rule, requirement, standard of performance, safety determination, or scientific assessment implemented pursuant to this Act, shall be construed to preempt, displace, or supplant any state or Federal common law rights or any state or Federal statute creating a remedy for civil relief, including those for civil damage, or a penalty for a criminal conduct.

"(B) CLARIFICATION OF NO PREEMPTION.—Notwithstanding any other provision of this Act, nothing in this Act, nor any amendments made by this Act, shall preempt or preclude any cause of action for personal injury, wrongful death, property damage, or other injury based on negligence, strict liability, products liability, failure to warn, or any other legal theory of liability under any State law, maritime law, or Federal common law or statutory theory.

"(2) NO EFFECT ON PRIVATE REMEDIES.—

"(A) Nothing in this Act, nor any amendments made by this Act, nor any rules, regulations, requirements, safety assessments, safety determinations, scientific assessments, or orders issued pursuant to this Act shall be interpreted as, in either the plaintiff's or defendant's favor, dispositive in any civil action.

"(B) This Act does not affect the authority of any court to make a determination in an adjudicatory proceeding under applicable State or Federal law with respect to the admission into evidence or any other use of this Act or rules, regulations, requirements, standards of performance, safety assessments, scientific assessments, or orders issued pursuant to this Act.".

# SEC. 19. JUDICIAL REVIEW.

Section 19 of the Toxic Substances Control Act (15 U.S.C. 2618) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "section 4(a), 5(a)(2), 5(b)(4), 6(a), 6(e), or 8, or under title II or IV" and inserting "section 4(a), 5(d), 6(c), 6(d), 6(g), or 8, or title II or IV"; and

(ii) in subparagraph (B), by striking "an order issued under subparagraph (A) or (B) of section 6(b)(1)" and inserting "an order issued under this title"; and

(B) in paragraph (2), in the first sentence, by striking "paragraph (1)(A)" and inserting "paragraph (1)"; and

(C) by striking paragraph (3); and

(2) in subsection (c)(1)(B)—

(A) in clause (i)—

(i) by striking "section 4(a), 5(b)(4), 6(a), or 6(e)" and inserting "section 4(a), 5(d), 6(d), or 6(g)"; and

(ii) by striking "evidence in the rulemaking record (as defined in subsection (a)(3)) taken as a whole;" and inserting "evidence (including any matter) in the rulemaking record, taken as a whole; and"; and

(B) by striking clauses (ii) and (iii) and the matter following clause (iii) and inserting the following:

"(ii) the court may not review the contents and adequacy of any statement of basis and purpose required by section 553(c) of title 5, United States Code, to be incorporated in the rule, except as part of the rulemaking record, taken as a whole.".

# SEC. 20. CITIZENS' PETITIONS.

Section 21 of the Toxic Substances Control Act (15 U.S.C. 2620) is amended—

(1) in subsection (a), by striking "an order under section 5(e) or 6(b)(2)" and inserting "an order under section 4 or 5(d)"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "an order under section 5(e), 6(b)(1)(A), or 6(b)(1)(B)" and inserting "an order under section 4 or 5(d)"; and

(B) in paragraph (4), by striking subparagraph (B) and inserting the following:

"(B) DE NOVO PROCEEDING.—

"(i) IN GENERAL.—In an action under subparagraph (A) to initiate a proceeding to promulgate a rule pursuant to section 4, 5, 6, or 8 or an order issued under section 4 or 5, the petitioner shall be provided an opportunity to have the petition considered by the court in a de novo proceeding.

"(ii) DEMONSTRATION.—

"(I) IN GENERAL.—The court in a de novo proceeding under this subparagraph shall order the Administrator to initiate the action requested by the petitioner if the petitioner demonstrates to the satisfaction of the court by a preponderance of the evidence that—

"(aa) in the case of a petition to initiate a proceeding for the issuance of a rule or order under section 4, the information available to the Administrator is insufficient for the Administrator to perform an action described in section 4, 4A, 5, or 6(d);

"(bb) in the case of a petition to issue an order under section 5(d), there is a reasonable basis to conclude that the chemical substance is not likely to meet the safety standard;

"(cc) in the case of a petition to initiate a proceeding for the issuance of a rule under section 6(d), there is a reasonable basis to conclude that the chemical substance will not meet the safety standard; or

"(dd) in the case of a petition to initiate a proceeding for the issuance of a rule under section 8, there is a reasonable basis to conclude that the rule is necessary to protect health or the environment or ensure that the chemical substance meets the safety standard.

"(II) DEFERMENT.—The court in a de novo proceeding under this subparagraph may permit the Administrator to defer initiating the action requested by the petitioner until such time as the court prescribes, if the court finds that—

"(aa) the extent of the risk to health or the environment alleged by the petitioner is less than the extent of risks to health or the environment with respect to which the Administrator is taking action under this Act; and

"(bb) there are insufficient resources available to the Administrator to take the action requested by the petitioner.".

# SEC. 21. EMPLOYMENT EFFECTS.

Section 24(b)(2)(B)(ii) of the Toxic Substances Control Act (15 U.S.C. 2623(b)(2)(B)(ii)) is amended by striking "section 6(c)(3)," and inserting "the applicable requirements of this Act;".

# SEC. 22. STUDIES.

Section 25 of the Toxic Substances Control Act (15 U.S.C. 2624) is repealed.

# SEC. 23. ADMINISTRATION.

Section 26 of the Toxic Substances Control Act (15 U.S.C. 2625) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) Fees.—

"(1) IN GENERAL.—The Administrator shall establish, not later than 1 year after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, by rule—

"(A) the payment of 1 or more reasonable fees as a condition of submitting a notice or requesting an exemption under section 5;

"(B) the payment of 1 or more reasonable fees by a manufacturer or processor that—

"(i) is required to submit a notice pursuant to the rule promulgated under section 8(b)(4)(A)(i) identifying a chemical substance as active;

"(ii) is required to submit a notice pursuant to section 8(b)(5)(B)(i) changing the status of a chemical substance from inactive to active;

"(iii) is required to report information pursuant to the rules promulgated under section 8(a)(4); and

"(iv) manufactures or processes a chemical substance subject to a safety assessment and safety determination pursuant to section 6.

"(2) UTILIZATION AND COLLECTION OF FEES.—The Administrator shall—

"(A) utilize the fees collected under paragraph (1) only to defray costs associated with the actions of the Administrator—

"(i) to collect, process, review, provide access to, and protect from disclosure (where appropriate) information on chemical substances under this Act;

"(ii) to review notices and make determinations for chemical substances under paragraphs (1) and (3) of section 5(d) and impose any necessary restrictions under section 5(d)(4);

"(iii) to make prioritization decisions under section 4A;

"(iv) to conduct and complete safety assessments and determinations under section 6; and

"(v) to conduct any necessary rulemaking pursuant to section 6(d);

"(B) insofar as possible, collect the fees described in paragraph (1) in advance of conducting any fee-supported activity;

"(C) deposit the fees in the Fund established by paragraph (4)(A); and

"(D) not collect excess fees or retain a significant amount of unused fees.

"(3) AMOUNT AND ADJUSTMENT OF FEES; REFUNDS.—In setting fees under this section, the Administrator shall—

"(A) take into account the cost to the Administrator of conducting the activities described in paragraph (2);

"(B) prescribe lower fees for small business concerns, after consultation with the Administrator of the Small Business Administration;

"(C) set the fees established under paragraph (1) at levels such that the fees will, in aggregate, provide a sustainable source of funds to defray approximately 25 percent of the costs of conducting the activities identified in paragraph (2)(A), not to exceed $18,000,000, not including fees under subparagraph (E) of this paragraph;

"(D) reflect an appropriate balance in the assessment of fees between manufacturers and processors, and allow the payment of fees by consortia of manufacturers or processors;

"(E) for substances designated as additional priorities pursuant to section 4A(c), establish the fee at a level sufficient to defray the full costs to the Administrator of conducting the safety assessment and safety determination under section 6;

"(F) prior to the establishment or amendment of any fees under paragraph (1), consult and meet with parties potentially subject to the fees or their representatives, subject to the condition that no obligation under the Federal Advisory Committee Act (5 U.S.C. App.) or subchapter III of chapter 5 of title 5, United States Code, is applicable with respect to such meetings;

"(G) beginning with the fiscal year that is 3 years after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, and every 3 years thereafter, after consultation with parties potentially subject to the fees and their representatives, increase or decrease the fees established under paragraph (1) as necessary—

"(i) to ensure that funds deposited in the Fund are sufficient to conduct the activities identified in paragraph (2)(A) and the full costs of safety assessments and safety determinations pursuant to subparagraph (E); and

"(ii) to account for inflation;

"(H) adjust fees established under paragraph (1) as necessary to vary on account of differing circumstances, including reduced fees or waivers in appropriate circumstances, to reduce the burden on manufacturing or processing, remove barriers to innovation, or where the costs to the Administrator of collecting the fees exceed the fee revenue anticipated to be collected; and

"(I) if a notice submitted under section 5 is refused or subsequently withdrawn,

refund the fee or a portion of the fee if no substantial work was performed on the notice.

"(4) TSCA IMPLEMENTATION FUND.—

"(A) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the 'TSCA Implementation Fund' (referred to in this subsection as the 'Fund'), consisting of—

"(i) such amounts as are deposited in the Fund under paragraph (2)(C); and

"(ii) any interest earned on the investment of amounts in the Fund; and

"(iii) any proceeds from the sale or redemption of investments held in the Fund.

"(B) CREDITING AND AVAILABILITY OF FEES.—

"(i) IN GENERAL.—Fees authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts, and shall be available without fiscal year limitation.

"(ii) REQUIREMENTS.—Fees collected under this section shall not—

"(I) be made available or obligated for any purpose other than to defray the costs of conducting the activities identified in paragraph (2)(A);

"(II) otherwise be available for any purpose other than implementation of this Act; and

"(III) so long as amounts in the Fund remain available, be subject to restrictions on expenditures applicable to the Federal government as a whole.

"(C) UNUSED FUNDS.—Amounts in the Fund not currently needed to carry out this subsection shall be—

"(i) maintained readily available or on deposit;

"(ii) invested in obligations of the United States or guaranteed by the United States; or

"(iii) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

"(D) MINIMUM AMOUNT OF APPROPRIATIONS.—Fees may not be assessed for a fiscal year under this section unless the amount of appropriations for salaries, contracts, and expenses for the functions (as in existence in fiscal year 2015) of the Office of Pollution Prevention and Toxics of the Environmental Protection Agency for the fiscal year (excluding the amount of any fees appropriated for the fiscal year) are equal to or greater than the amount of appropriations for covered functions for fiscal year 2015 (excluding the amount of any fees appropriated for the fiscal year).

"(5) AUDITING.—

"(A) FINANCIAL STATEMENTS OF AGENCIES.—For the purpose of section 3515(c) of title 31, United States Code, the Fund shall be considered a component of an executive agency.

"(B) COMPONENTS.—The annual audit required under sections 3515(b) and 3521 of that title of the financial statements of activities under this subsection shall include an analysis of—

"(i) the fees collected under paragraph (1) and disbursed;

"(ii) compliance with the deadlines established in section 6 of this Act;

"(iii) the amounts budgeted, appropriated, collected from fees, and disbursed to meet the requirements of sections 4, 4A, 5, 6, 8, and 14, including the allocation of full time equivalent employees to each such section or activity; and

"(iv) the reasonableness of the allocation of the overhead associated with the conduct of the activities described in paragraph (2)(A).

"(C) INSPECTOR GENERAL.—The Inspector General of the Environmental Protection Agency shall—

"(i) conduct the annual audit required under this subsection; and

"(ii) report the findings and recommendations of the audit to the Administrator and to the appropriate committees of Congress.

"(6) TERMINATION.—The authority provided by this section shall terminate at the conclusion of the fiscal year that is 10 years after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, unless otherwise reauthorized or modified by Congress.";

(2) in subsection (e), by striking "Health, Education, and Welfare" each place it appears and inserting "Health and Human Services"; and

(3) adding at the end the following:

"(h) Prior Actions.—Nothing in this Act eliminates, modifies, or withdraws any rule promulgated, order issued, or exemption established pursuant to this Act before the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act.".

# SEC. 24. DEVELOPMENT AND EVALUATION OF TEST METHODS AND SUSTAINABLE CHEMISTRY.

Section 27 of the Toxic Substances Control Act (15 U.S.C. 2626) is amended—

(1) in subsection (a), in the first sentence by striking "Health, Education, and Welfare" and inserting "Health and Human Services"; and

(2) by adding at the end the following:

"(c) Sustainable Chemistry Program.—The President shall establish an interagency Sustainable Chemistry Program to promote and coordinate Federal sustainable chemistry research, development, demonstration, technology transfer, commercialization, education, and training activities.

"(d) Program Activities.—The activities of the Program shall be designed to—

"(1) provide sustained support for sustainable chemistry research, development, demonstration, technology transfer, commercialization, education, and training through—

"(A) coordination of sustainable chemistry research, development, demonstration, and technology transfer conducted at Federal laboratories and agencies; and

"(B) to the extent practicable, encouragement of consideration of sustainable chemistry in, as appropriate—

"(i) the conduct of Federal and State science and engineering research and development; and

"(ii) the solicitation and evaluation of applicable proposals for science and engineering research and development;

"(2) examine methods by which the Federal Government can create incentives for consideration and use of sustainable chemistry processes and products, including innovative financing mechanisms;

"(3) expand the education and training of undergraduate and graduate students and professional scientists and engineers, including through partnerships with industry, in sustainable chemistry science and engineering;

"(4) collect and disseminate information on sustainable chemistry research, development, and technology transfer including information on—

"(A) incentives and impediments to development, manufacturing, and commercialization;

"(B) accomplishments;

"(C) best practices; and

"(D) costs and benefits;

"(5) support (including through technical assistance, participation, financial support, or other forms of support) economic, legal, and other appropriate social science research to identify barriers to commercialization and methods to advance commercialization of sustainable chemistry.

"(e) Interagency Working Group.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, the President, in consultation with the Office of Science and Technology Policy, shall establish an Interagency Working Group that shall include representatives from the National Science Foundation, the National Institute of Standards and Technology, the Department of Energy, the Environmental Protection Agency, the Department of Agriculture, the Department of Defense, the National Institutes of Health, and any other agency that the President may designate to oversee the planning, management, and coordination of the Program.

"(2) GOVERNANCE.—The Director of the National Science Foundation and the Assistant Administrator for Research and Development of the Environmental Protection Agency, or their designees, shall serve as co-chairs of the Interagency Working Group.

"(3) RESPONSIBILITIES.—In overseeing the planning, management, and coordination of the Program, the Interagency Working Group shall—

"(A) establish goals and priorities for the Program, in consultation with the Advisory

Council;

"(B) provide for interagency coordination, including budget coordination, of activities under the Program;

"(C) meet not later than 90 days from its establishment and periodically thereafter; and

"(D) establish and consult with an Advisory Council on a regular basis.

"(4) MEMBERSHIP.—The Advisory Council members shall not be employees of the Federal Government and shall include a diverse representation of knowledgeable individuals from the private sector (including small- and medium-sized enterprises from across the value chain), academia, State and tribal governments, and nongovernmental organizations and others who are in a position to provide expertise.

"(f) Agency Budget Requests.—

"(1) IN GENERAL.—Each Federal agency and department participating in the Program shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report to the Office of Management and Budget that—

"(A) identifies the activities of the agency or department that contribute directly to the Program; and

"(B) states the portion of the agency or department's request for appropriations that is allocated to those activities.

"(2) ANNUAL BUDGET REQUEST TO CONGRESS.—The President shall include in the annual budget request to Congress a statement of the portion of the annual budget request for each agency or department that will be allocated to activities undertaken pursuant to the Program.

"(g) Report to Congress.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, the Interagency Working Group shall submit a report to the Committee on Science, Space, and Technology and Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate that shall include—

"(A) a summary of federally funded sustainable chemistry research, development, demonstration, technology transfer, commercialization, education, and training activities;

"(B) a summary of the financial resources allocated to sustainable chemistry initiatives;

"(C) an analysis of the progress made toward achieving the goals and priorities of this Act, and recommendations for future program activities;

"(D) an assessment of the benefits of expanding existing, federally-supported regional innovation and manufacturing hubs to include sustainable chemistry and the value of directing the creation of 1 or more dedicated sustainable chemistry centers of excellence or hubs; and

"(E) an evaluation of steps taken and future strategies to avoid duplication of efforts, streamline interagency coordination, facilitate information sharing, and spread best practices between participating agencies in the Program.

"(2) SUBMISSION TO GAO.—The Interagency Working Group shall also submit the report described in paragraph (1) to the Government Accountability Office for consideration in future Congressional inquiries.".

# SEC. 25. STATE PROGRAMS.

Section 28 of the Toxic Substances Control Act (15 U.S.C. 2627) is amended—

(1) in subsection (b)(1)—

(A) in subparagraphs (A) through (D), by striking the comma at the end of each subparagraph and inserting a semicolon; and

(B) in subparagraph (E), by striking ", and" and inserting "; and"; and

(2) by striking subsections (c) and (d).

# SEC. 26. AUTHORIZATION OF APPROPRIATIONS.

Section 29 of the Toxic Substances Control Act (15 U.S.C. 2628) is repealed.

# SEC. 27. ANNUAL REPORT.

Section 30 of the Toxic Substances Control Act (15 U.S.C. 2629) is amended by striking paragraph (2) and inserting the following:

"(2)(A) the number of notices received during each year under section 5; and

"(B) the number of the notices described in subparagraph (A) for chemical substances subject to a rule, testing consent agreement, or order under section 4;".

# SEC. 28. EFFECTIVE DATE.

Section 31 of the Toxic Substances Control Act (15 U.S.C. 2601 note; Public Law 94–469) is amended—

(1) by striking "Except as provided in section 4(f), this" and inserting the following:

"(a) In General.—This"; and

(2) by adding at the end the following:

"(b) Retroactive Applicability.—Nothing in this Act shall be interpreted to apply retroactively to any State, Federal, or maritime legal action commenced prior to the effective date of the Frank R. Lautenberg Chemical Safety for the 21st Century Act.".

Message

**From**: McCarthy, David [David.McCarthy@mail.house.gov]
**Sent**: 7/2/2015 5:48:06 PM
**To**: Vaught, Laura [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c30920bcb6214a91b7e3c1e7810c63e1-Vaught, Laura]
**CC**: Couri, Jerry [JerryCouri@mail.house.gov]
**Subject**: RE: Possible TSCA hearing

Laura - Just left you a voice mail. As Jerry has mentioned to Sven, It turns out that what works better for our Members is a July 10 informal discussion of these section 8 issues. So no formal testimony or on-the-record testimony. We'll likely gather in 2322 Rayburn at around 10. The five issues we've narrowed it down to are nomenclature, resetting the inventory, the aluminum petition on reporting, recyclers, and the size threshold definition of small business. Each is mentioned in our Committee Report that accompanies H.R. 2576. The meeting will, of course, be bi-par. Besides Shimkus and Tonko, I think Doyle, Johnson, Schrader, Green, and Latta have shown the most interest. I don't anticipate us doing any press on it. We would like very much for the Agency to join us and participate so that our Members can get the Agency perspective on each of these issues. All five issues were ones where we had Member interest in addressing in HR 2576 but we did not have time to sort out. We're all trying to gauge people's continuing interest. I'm at my desk for another hour or so, 226-9606. Or try my cell anytime (b) (6) [redacted]. Thanks so much. Dave

---

**From:** Vaught, Laura [mailto:Vaught.Laura@epa.gov]
**Sent:** Tuesday, June 09, 2015 7:08 PM
**To:** McCarthy, David
**Subject:** RE: Possible TSCA hearing

Sounds good -- thanks.

---

**From:** McCarthy, David [mailto:David.McCarthy@mail.house.gov]
**Sent:** Tuesday, June 09, 2015 7:04 PM
**To:** Vaught, Laura
**Subject:** Re: Possible TSCA hearing

It.s not 100 percent that we do it, and it's small potatoes. May I call tomorrow? Thanks. D

---

**From**: Vaught, Laura [mailto:Vaught.Laura@epa.gov]
**Sent**: Tuesday, June 09, 2015 06:38 PM
**To**: McCarthy, David
**Subject**: Re: Possible TSCA hearing

Thanks. Will give you a call. I think Jim is out on vacation that week though...

Sent from my iPhone

On Jun 9, 2015, at 6:21 PM, McCarthy, David <David.McCarthy@mail.house.gov> wrote:

> Laura – We're looking at July 8 as a hearing date for a short hearing on TSCA section 8 reporting issues. Happy to discuss. 226-9606. Thanks. Dave
>
> PS: Hope all's well.

Message

**From:** McCarthy, David [David.McCarthy@mail.house.gov]
**Sent:** 7/2/2015 8:50:11 PM
**To:** Vaught, Laura [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c30920bcb6214a91b7e3c1e7810c63e1-Vaught, Laura]
**Subject:** Re: Possible TSCA hearing

Laura - Call whenever it's convenient. Thanks! Dave

---

**From**: Vaught, Laura [mailto:Vaught.Laura@epa.gov]
**Sent**: Thursday, July 02, 2015 03:03 PM
**To**: McCarthy, David
**Cc**: Couri, Jerry
**Subject**: RE: Possible TSCA hearing

Dave – I'll try to give you a call in a bit to discuss. But just to flag one big problem I know we have – Jim is out of town on vacation next week.

---

**From:** McCarthy, David [mailto:David.McCarthy@mail.house.gov]
**Sent:** Thursday, July 02, 2015 1:48 PM
**To:** Vaught, Laura
**Cc:** Couri, Jerry
**Subject:** RE: Possible TSCA hearing

Laura - Just left you a voice mail. As Jerry has mentioned to Sven, It turns out that what works better for our Members is a July 10 informal discussion of these section 8 issues. So no formal testimony or on-the-record testimony. We'll likely gather in 2322 Rayburn at around 10. The five issues we've narrowed it down to are nomenclature, resetting the inventory, the aluminum petition on reporting, recyclers, and the size threshold definition of small business. Each is mentioned in our Committee Report that accompanies H.R. 2576. The meeting will, of course, be bi-par. Besides Shimkus and Tonko, I think Doyle, Johnson, Schrader, Green, and Latta have shown the most interest. I don't anticipate us doing any press on it. We would like very much for the Agency to join us and participate so that our Members can get the Agency perspective on each of these issues. All five issues were ones where we had Member interest in addressing in HR 2576 but we did not have time to sort out. We're all trying to gauge people's continuing interest. I'm at my desk for another hour or so, 226-9606. Or try my cell anytime (b) (6) [redacted] Thanks so much. Dave

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**Sent:** Tuesday, June 09, 2015 7:08 PM
**To:** McCarthy, David
**Subject:** RE: Possible TSCA hearing

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---

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**Sent:** Tuesday, June 09, 2015 7:04 PM
**To:** Vaught, Laura
**Subject:** Re: Possible TSCA hearing

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---

**From**: Vaught, Laura [mailto:Vaught.Laura@epa.gov]
**Sent**: Tuesday, June 09, 2015 06:38 PM

**To**: McCarthy, David
**Subject**: Re: Possible TSCA hearing

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Sent from my iPhone

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> Laura – We're looking at July 8 as a hearing date for a short hearing on TSCA section 8 reporting issues. Happy to discuss. 226-9606. Thanks. Dave
>
> PS: Hope all's well.

Message

**From:** Vaught, Laura [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C30920BCB6214A91B7E3C1E7810C63E1-VAUGHT, LAURA]
**Sent:** 3/3/2015 6:17:16 PM
**To:** Black, Jonathan (Tom Udall) [Jonathan_Black@tomudall.senate.gov]
**CC:** Taylor, Rachael (Appropriations) [Rachael_Taylor@appro.senate.gov]
**Subject:** Re: please call me

Let's definitely try to talk. I actually thought that was topic. Jim is on vacation...

Sent from my iPhone

On Mar 3, 2015, at 12:37 PM, Black, Jonathan (Tom Udall) <Jonathan_Black@tomudall.senate.gov> wrote:

> Just tried you again.
> Sen. Udall is scheduled to see Administrator McCarthy Thursday at 4pm.
> Sen. Udall would like Jim Jones to attend so we can all discuss TSCA in addition to appropriations.
> Thanks,
> ---Jonathan
>
> **From:** Vaught, Laura [mailto:Vaught.Laura@epa.gov]
> **Sent:** Tuesday, March 03, 2015 11:16 AM
> **To:** Black, Jonathan (Tom Udall)
> **Subject:** RE: please call me
> Just tried you - at 564-0304
>
> **From:** Black, Jonathan (Tom Udall) [mailto:Jonathan_Black@tomudall.senate.gov]
> **Sent:** Tuesday, March 03, 2015 10:44 AM
> **To:** Vaught, Laura
> **Subject:** please call me
> Re: Gina McCarthy visit to TU on Thursday.
> 224-6722

Message

**From**: McCarthy, David [David.McCarthy@mail.house.gov]
**Sent**: 7/10/2015 5:26:06 PM
**To**: Vaught, Laura [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c30920bcb6214a91b7e3c1e7810c63e1-Vaught, Laura]
**Subject**: Tsca chat

Laura - Hope it works for Jim to come in at 11AM next Thursday to visit with Members on the section 8 stuff. We'll finish with the stakeholders before that. You and Jim are welcome to enter 2322 through the staff and Member doors, and we'll make you comfortable in a small conference room if you arrive before 11AM. Thanks so much. Dave

Message

**From:** Vaught, Laura [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C30920BCB6214A91B7E3C1E7810C63E1-VAUGHT, LAURA]
**Sent:** 8/5/2015 2:26:46 PM
**To:** Bettina Poirier (EPW) [Bettina_Poirier@epw.senate.gov]
**Subject:** Fwd: Is there a positive jobs number on clean power plan -- repubs say massive jobs loss per black chamber of congress
**Attachments:** QonNBCCreport July 7 2015 - 230pm.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

**From:** "Niebling, William" <Niebling.William@epa.gov>
**Date:** August 5, 2015 at 10:18:47 AM EDT
**To:** "Vaught, Laura" <Vaught.Laura@epa.gov>, "Distefano, Nichole" <DiStefano.Nichole@epa.gov>
**Cc:** "Ashley, Jackie" <Ashley.Jackie@epa.gov>, "Terry, Sara" <Terry.Sara@epa.gov>
**Subject: RE: Is there a positive jobs number on clean power plan -- repubs say massive jobs loss per black chamber of congress**

Also, here is what we put together for Gina's hearing on the black chamber report (pasted and attached). Key point is that the NBCC report didn't actually study the CPP – it compiled seven previous studies looking at other policies (e.g. cap and trade or carbon tax). So, it is just off-topic here.
-Wm.

**Q. How does EPA respond to claims made recently by the National Black Chamber of Commerce that the Clean Power Plan will push thousands into poverty and have other negative effects on communities of color?**

- <!--[if !supportLists]--><!--[endif]-->Critics have touted "doom and gloom" reports like this one for nearly every major EPA rule since the Clean Air Act started. None of those studies have proven to have been accurate.
- <!--[if !supportLists]--><!--[endif]-->EPA has a number of concerns about the NBCC report.
- <!--[if !supportLists]--><!--[endif]-->First, the NBCC report is not a study of the Clean Power Plan that EPA proposed. Rather, to make these sensational claims, the NBCC report basically compiles the results of seven previous studies that included policies like a carbon tax, cap and trade, and others. Several of these other policies have little in common with the state-led, flexible approach to reducing carbon pollution that EPA proposed in the Clean Power Plan. Therefore, it's hard to see how the NBCC's results have any bearing.
- <!--[if !supportLists]--><!--[endif]-->Second, while the NBCC study emphasizes electricity costs, it does not mention that due to the reduced demand from energy efficiency in the proposed Clean Power Plan, the total electric bill for residential, commercial and industrial customers, will likely be lower.
    - <!--[if !supportLists]--><!--[endif]-->Nationally, in 2030 when the plan is fully implemented, electricity bills are expected to be roughly 8 percent lower than they would have been without the actions in state plans.
- <!--[if !supportLists]--><!--[endif]-->Third, the NBCC report ignores the direct job stimulus of implementing 111(d). Modernizing the electricity sector will continue to provide good-

paying American jobs for years to come, as states and utilities make plans to modernize the aging of current assets and infrastructure, building cleaner sources of energy, and support jobs related to demand-side energy efficiency.

- <!--[if !supportLists]--><!--[endif]-->Finally, the NBCC report is based on methods that are not available for public review and evaluation. EPA's RIA, in contrast, uses the best available science and peer reviewed methods that are available for public review and comment.
- <!--[if !supportLists]--><!--[endif]-->The proposed Clean Power Plan provides broad benefit to all communities across the nation. Reducing greenhouse gases, the primary driver of climate change, is especially beneficial to low income communities, communities of color and indigenous populations, who are most vulnerable to the impacts of climate change.
- <!--[if !supportLists]--><!--[endif]-->States typically offer energy efficiency programs to their residents, regardless of income level, to help them use electricity more efficiently and lower their bills. States also implement specific "low income" EE programs, for example providing weatherization assistance or energy efficiency measures and services, such as insulation or energy efficient appliances. The Clean Power Plan provides flexibility to the states so that they can use and/or expand these types of programs and preserve reliable, affordable power for all Americans.
- <!--[if !supportLists]--><!--[endif]-->For these reasons several groups have disputed NBCC's claims and come out in support of the Clean Power Plan and taking action on climate change. These groups include the National Medical Association; the Hip Hop Caucus; Green For All; WEACT; Voces Verdes and Green Latinos.

**Historical Background**

- <!--[if !supportLists]--><!--[endif]-->There is a long history of industry and others making very pessimistic predictions about the consequences of EPA rules. They can point to no evidence that those predictions have ever come true.
- <!--[if !supportLists]--><!--[endif]-->An industry study of the 1990 Clean Air Act predicted up to 2 million jobs lost. There is no evidence that such a prediction ever came true. Americans know that we have been able to grow our economy and clean up our air at the same time.
  - In 1990, electric utilities estimated that :
    - the CAA amendments would increase electricity rates by 10% or more due to the sulfur dioxide trading provision of the acid rain program.[1]
    - BUT, in fact:
      - Between 1990 and 2006, electricity prices FELL in most states[2]
      - <!--[if !supportLists]--><!--[endif]-->For example, they fell by 64 percent in Illinois, by 35 percent in Michigan, by 36 percent each in Pennsylvania and Virginia, by 30 percent in North Carolina, by 28 percent in Indiana, and by 18 percent in Ohio.
- <!--[if !supportLists]--><!--[endif]-->In fact, history has shown that economic growth and cleaner air go hand in hand. Since the Clean Air Act first passed in 1970, air pollution has decreased by about 70 percent while the U.S. economy has tripled.[3]

**From:** Niebling, William
**Sent:** Wednesday, August 05, 2015 10:16 AM

---

[1] [1]http://democrats.energycommerce.house.gov/Press_111/20090616/dc_industryjobs.pdf This is quoting the Clean Air Working Group.

[2]http://democrats.energycommerce.house.gov/Press_111/20090616/dc_industryjobs.pdf
While it is possible that electricity prices may have fallen more in the absence of the rule, the evidence nevertheless shows that it is possible to have environmental regulation and economic improvements.

[3] http://www.epa.gov/airtrends/aqtrends.html

**To:** Vaught, Laura; Distefano, Nichole
**Cc:** Ashley, Jackie; Terry, Sara
**Subject:** RE: Is there a positive jobs number on clean power plan -- repubs say massive jobs loss per black chamber of congress
+ Jackie & Sara
This gets into the whole jobs/job-years thing, which I know is complicated and frustrating, but is a fact of life. But we can say net job increase predicted, is my understanding. We just can't add the two numbers together.
Here is from nifty numbers.

| Type | 2020 | 2025 | 2030 |
|---|---|---|---|
| Power production / fossil fuel extraction (net) | - 8,500 job-years | - 25,000 job-years | - 30,900 job-years |
| Demand-side energy efficiency upgrades | + 37,600-59,700 jobs | + 52,600-83,600 jobs | + 52,400-83,400 jobs |

**From:** Vaught, Laura
**Sent:** Wednesday, August 05, 2015 10:10 AM
**To:** Niebling, William; Distefano, Nichole
**Subject:** Fwd: Is there a positive jobs number on clean power plan -- repubs say massive jobs loss per black chamber of congress
Not at desk. Does one of you have handy?

Sent from my iPhone

Begin forwarded message:

> **From:** "Poirier, Bettina (EPW)" <Bettina_Poirier@epw.senate.gov>
> **Date:** August 5, 2015 at 10:08:28 AM EDT
> **To:** Laura Vaught <Vaught.Laura@epamail.epa.gov>, Tara Billingsley <Tara_L_Billingsley@EOP / Ex. 6
> **Subject: Is there a positive jobs number on clean power plan -- repubs say massive jobs loss per black chamber of congress**
>
> Sent from my iPhone

**Q. How does EPA respond to claims made recently by the National Black Chamber of Commerce that the Clean Power Plan will push thousands into poverty and have other negative effects on communities of color?**

- Critics have touted "doom and gloom" reports like this one for nearly every major EPA rule since the Clean Air Act started. None of those studies have proven to have been accurate.
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- First, the NBCC report is not a study of the Clean Power Plan that EPA proposed. Rather, to make these sensational claims, the NBCC report basically compiles the results of seven previous studies that included policies like a carbon tax, cap and trade, and others. Several of these other policies have little in common with the state-led, flexible approach to reducing carbon pollution that EPA proposed in the Clean Power Plan. Therefore, it's hard to see how the NBCC's results have any bearing.
- Second, while the NBCC study emphasizes electricity costs, it does not mention that due to the reduced demand from energy efficiency in the proposed Clean Power Plan, the total electric bill for residential, commercial and industrial customers, will likely be lower.
    - Nationally, in 2030 when the plan is fully implemented, electricity bills are expected to be roughly 8 percent lower than they would have been without the actions in state plans.
- Third, the NBCC report ignores the direct job stimulus of implementing 111(d). Modernizing the electricity sector will continue to provide good-paying American jobs for years to come, as states and utilities make plans to modernize the aging of current assets and infrastructure, building cleaner sources of energy, and support jobs related to demand-side energy efficiency.
- Finally, the NBCC report is based on methods that are not available for public review and evaluation. EPA's RIA, in contrast, uses the best available science and peer reviewed methods that are available for public review and comment.
- The proposed Clean Power Plan provides broad benefit to all communities across the nation. Reducing greenhouse gases, the primary driver of climate change, is especially beneficial to low income communities, communities of color and indigenous populations, who are most vulnerable to the impacts of climate change.
- States typically offer energy efficiency programs to their residents, regardless of income level, to help them use electricity more efficiently and lower their bills. States also implement specific "low income" EE programs, for example providing weatherization assistance or energy efficiency measures and services, such as insulation or energy efficient appliances. The Clean Power Plan provides flexibility to the states so that they can use and/or expand these types of programs and preserve reliable, affordable power for all Americans.
- For these reasons several groups have disputed NBCC's claims and come out in support of the Clean Power Plan and taking action on climate change. These groups include the

National Medical Association; the Hip Hop Caucus; Green For All; WEACT; Voces Verdes and Green Latinos.

**Historical Background**

- There is a long history of industry and others making very pessimistic predictions about the consequences of EPA rules. They can point to no evidence that those predictions have ever come true.

- An industry study of the 1990 Clean Air Act predicted up to 2 million jobs lost. There is no evidence that such a prediction ever came true. Americans know that we have been able to grow our economy and clean up our air at the same time.

  - In 1990, electric utilities estimated that :
    - the CAA amendments would increase electricity rates by 10% or more due to the sulfur dioxide trading provision of the acid rain program.[1]

    - BUT, in fact:
      - Between 1990 and 2006, electricity prices FELL in most states[2]
      - For example, they fell by 64 percent in Illinois, by 35 percent in Michigan, by 36 percent each in Pennsylvania and Virginia, by 30 percent in North Carolina, by 28 percent in Indiana, and by 18 percent in Ohio.

- In fact, history has shown that economic growth and cleaner air go hand in hand. Since the Clean Air Act first passed in 1970, air pollution has decreased by about 70 percent while the U.S. economy has tripled.[3]

---

[1] [1]http://democrats.energycommerce.house.gov/Press_111/20090616/dc_industryjobs.pdf This is quoting the Clean Air Working Group.

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While it is possible that electricity prices may have fallen more in the absence of the rule, the evidence nevertheless shows that it is possible to have environmental regulation and economic improvements.

[3] http://www.epa.gov/airtrends/aqtrends.html

Message

**From**: Vaught, Laura [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C30920BCB6214A91B7E3C1E7810C63E1-VAUGHT, LAURA]
**Sent**: 3/16/2015 2:34:13 PM
**To**: 'Zipkin, Adam (Booker)' [Adam_Zipkin@booker.senate.gov]
**Subject**: RE: time to connect?

Sounds good. Or just give me a call. My direct is 564-0304

**From:** Zipkin, Adam (Booker) [mailto:Adam_Zipkin@booker.senate.gov]
**Sent:** Monday, March 16, 2015 10:23 AM
**To:** Vaught, Laura
**Subject:** Re: time to connect?

Sorry for delayed response - in staff meeting will email when out.

**From**: Vaught, Laura [mailto:Vaught.Laura@epa.gov]
**Sent**: Monday, March 16, 2015 09:45 AM
**To**: Zipkin, Adam (Booker)
**Subject**: Re: time to connect?
Can I call you in 5-10 minutes?

Sent from my iPhone

On Mar 16, 2015, at 9:38 AM, Zipkin, Adam (Booker) <Adam_Zipkin@booker.senate.gov> wrote:

> Hi Laura. Would 9:45 or 10:15 be too soon?
>
> **From:** Vaught, Laura [mailto:Vaught.Laura@epa.gov]
> **Sent:** Monday, March 16, 2015 9:02 AM
> **To:** Zipkin, Adam (Booker)
> **Cc:** Distefano, Nichole
> **Subject:** time to connect?
>
> Hi Adam -- do you have time to connect later today? Wanted to talk about TSCA for a few minutes. I hear that our bosses talked when they were together in NJ last week and wanted to follow up on that.
>
> **Laura E. Vaught**
> Associate Administrator
> Office of Congressional and Intergovernmental Relations
> U.S. Environmental Protection Agency
> (202) 564-0304 (direct)

Message

**From:** Vaught, Laura [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C30920BCB6214A91B7E3C1E7810C63E1-VAUGHT, LAURA]
**Sent:** 3/16/2015 3:17:22 PM
**To:** 'Zipkin, Adam (Booker)' [Adam_Zipkin@booker.senate.gov]
**Subject:** FW: TSCA reform principles doc
**Attachments:** Essential Principles for Reform of Chemicals Management Legislation.pdf

Hi Adam - here are the Administration's TSCA principles that were announced in 2009.

**Essential Principles for Reform of Chemicals Management Legislation**

The U.S. Environmental Protection Agency (EPA) is committed to working with the Congress, members of the public, the environmental community, and the chemical industry to reauthorize the Toxic Substances Control Act (TSCA). The Administration believes it is important to work together to quickly modernize and strengthen the tools available in TSCA to increase confidence that chemicals used in commerce, which are vital to our Nation's economy, are safe and do not endanger the public health and welfare of consumers, workers, and especially sensitive sub-populations such as children, or the environment.

The following Essential Principles for Reform of Chemicals Management Legislation (Principles) are provided to help inform efforts underway in this Congress to reauthorize and significantly strengthen the effectiveness of TSCA. These Principles present Administration goals for updated legislation that will give EPA the mechanisms and authorities to expeditiously target chemicals of concern and promptly assess and regulate new and existing chemicals.

**Principle No. 1: Chemicals Should Be Reviewed Against Safety Standards That Are Based on Sound Science and Reflect Risk-based Criteria Protective of Human Health and the Environment.**

EPA should have clear authority to establish safety standards that are based on scientific risk assessments. Sound science should be the basis for the assessment of chemical risks, while recognizing the need to assess and manage risk in the face of uncertainty.

**Principle No. 2: Manufacturers Should Provide EPA With the Necessary Information to Conclude That New and Existing Chemicals Are Safe and Do Not Endanger Public Health or the Environment.**

Manufacturers should be required to provide sufficient hazard, exposure, and use data for a chemical to support a determination by the Agency that the chemical meets the safety standard. Exposure and hazard assessments from manufacturers should be required to include a thorough review of the chemical's risks to sensitive subpopulations

Where manufacturers do not submit sufficient information, EPA should have the necessary authority and tools, such as data call in, to quickly and efficiently require testing or obtain other information from manufacturers that is relevant to determining the safety of chemicals. EPA should also be provided the necessary authority to efficiently follow up on chemicals which have been previously assessed (e.g., requiring additional data or testing, or taking action to reduce risk) if there is a change which may affect safety, such as increased production volume, new uses or new information on potential hazards or exposures. EPA's authority to require submission of use and exposure information should extend to downstream processors and users of chemicals.

**Principle No. 3: Risk Management Decisions Should Take into Account Sensitive Subpopulations, Cost, Availability of Substitutes and Other Relevant Considerations**

EPA should have clear authority to take risk management actions when chemicals do not meet the safety standard, with flexibility to take into account a range of considerations, including children's health, economic costs, social benefits, and equity concerns.

**Principle No. 4: Manufacturers and EPA Should Assess and Act on Priority Chemicals, Both Existing and New, in a Timely Manner**

EPA should have authority to set priorities for conducting safety reviews on existing chemicals based on relevant risk and exposure considerations. Clear, enforceable and practicable deadlines applicable to the Agency and industry should be set for completion of chemical reviews, in particular those that might impact sensitive sub-populations

**Principle No. 5: Green Chemistry Should Be Encouraged and Provisions Assuring Transparency and Public Access to Information Should Be Strengthened**

The design of safer and more sustainable chemicals, processes, and products should be encouraged and supported through research, education, recognition, and other means. The goal of these efforts should be to increase the design, manufacture, and use of lower risk, more energy efficient and sustainable chemical products and processes.

TSCA reform should include stricter requirements for a manufacturer's claim of Confidential Business Information (CBI). Manufacturers should be required to substantiate their claims of confidentiality. Data relevant to health and safety should not be claimed or otherwise treated as CBI. EPA should be able to negotiate with other governments (local, state, and foreign) on appropriate sharing of CBI with the necessary protections, when necessary to protect public health and safety.

**Principle No. 6: EPA Should Be Given a Sustained Source of Funding for Implementation**

Implementation of the law should be adequately and consistently funded, in order to meet the goal of assuring the safety of chemicals, and to maintain public confidence that EPA is meeting that goal. To that end, manufacturers of chemicals should support the costs of Agency implementation, including the review of information provided by manufacturers.

Message

**From**: Vaught, Laura [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C30920BCB6214A91B7E3C1E7810C63E1-VAUGHT, LAURA]
**Sent**: 3/17/2015 1:31:47 PM
**To**: 'Zipkin, Adam (Booker)' [Adam_Zipkin@booker.senate.gov]
**Subject**: RE: TSCA reform principles doc

Thanks Adam - will take a look and loop back.

**From:** Zipkin, Adam (Booker) [mailto:Adam_Zipkin@booker.senate.gov]
**Sent:** Tuesday, March 17, 2015 9:20 AM
**To:** Vaught, Laura
**Subject:** RE: TSCA reform principles doc

Laura good morning -- attached are draft questions. Could we do a call to discuss once you have a chance to review on your end? Thanks! Adam

**From:** Vaught, Laura [mailto:Vaught.Laura@epa.gov]
**Sent:** Monday, March 16, 2015 11:17 AM
**To:** Zipkin, Adam (Booker)
**Subject:** FW: TSCA reform principles doc

Hi Adam - here are the Administration's TSCA principles that were announced in 2009.

Message

**From:** Vaught, Laura [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C30920BCB6214A91B7E3C1E7810C63E1-VAUGHT, LAURA]
**Sent:** 9/28/2015 5:55:49 PM
**To:** 'Albritton, Jason (EPW)' [Jason_Albritton@epw.senate.gov]
**Subject:** RE: TSCA

Ok – slight issue as Jim has to do the worker protection rollout with the Administrator and Secretary Perez at 2:00, but if you need tech assistance, then maybe you and I can talk to get ball rolling and we can reconvene when he's free. Or we can just try to get folks at around 3:00.

**From:** Albritton, Jason (EPW) [mailto:Jason_Albritton@epw.senate.gov]
**Sent:** Monday, September 28, 2015 1:52 PM
**To:** Vaught, Laura
**Subject:** RE: TSCA

Just now seeing this. Give me 5 minutes to see if I can convene folks.

**From:** Vaught, Laura [mailto:Vaught.Laura@epa.gov]
**Sent:** Monday, September 28, 2015 1:23 PM
**To:** Albritton, Jason (EPW)
**Subject:** RE: TSCA

Yes - we can do at 1:45 if that works.

**From:** Albritton, Jason (EPW) [mailto:Jason_Albritton@epw.senate.gov]
**Sent:** Monday, September 28, 2015 1:22 PM
**To:** Vaught, Laura
**Subject:** TSCA

Are you and Jim available for a quick call to talk with us and Inhofe staff about the pause preemption timing language we worked with you on Friday?

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

Message

**From:** Vaught, Laura [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C30920BCB6214A91B7E3C1E7810C63E1-VAUGHT, LAURA]
**Sent:** 9/28/2015 6:18:51 PM
**To:** 'Albritton, Jason (EPW)' [Jason_Albritton@epw.senate.gov]
**Subject:** RE: TSCA

3:00 should work – we'll have lawyers too. And I started them thinking.

**From:** Albritton, Jason (EPW) [mailto:Jason_Albritton@epw.senate.gov]
**Sent:** Monday, September 28, 2015 1:52 PM
**To:** Vaught, Laura
**Subject:** RE: TSCA

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**From:** Vaught, Laura [mailto:Vaught.Laura@epa.gov]
**Sent:** Monday, September 28, 2015 1:23 PM
**To:** Albritton, Jason (EPW)
**Subject:** RE: TSCA

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**From:** Albritton, Jason (EPW) [mailto:Jason_Albritton@epw.senate.gov]
**Sent:** Monday, September 28, 2015 1:22 PM
**To:** Vaught, Laura
**Subject:** TSCA

Are you and Jim available for a quick call to talk with us and Inhofe staff about the pause preemption timing language we worked with you on Friday?

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

Message

**From:** Vaught, Laura [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C30920BCB6214A91B7E3C1E7810C63E1-VAUGHT, LAURA]
**Sent:** 10/9/2015 8:58:22 PM
**To:** 'Albritton, Jason (EPW)' [Jason_Albritton@epw.senate.gov]
**Subject:** RE: Confidential - For Review

BTW - lots of people were out this afternoon for the long weekend, so will be early next week when we loop back.

**From:** Albritton, Jason (EPW) [mailto:Jason_Albritton@epw.senate.gov]
**Sent:** Friday, October 09, 2015 2:44 PM
**To:** Vaught, Laura
**Subject:** Confidential - For Review

Can EPA provide TA on the proposed amendment to TSCA below? We would like to know the impacts of this change.

Thanks.

Current section 6(e)(2)(A) and (B) in TSCA with suggested changes in underline/strikeout:

(2)(A) Except as provided under subparagraph (B), effective one year after the effective date of this Act no person may manufacture, process, or distribute in commerce or use any polychlorinated biphenyl in any manner other than in a totally enclosed manner.
(B) After January 1, 201X_no person may manufacture, process, or distribute in commerce or use inadvertently generated polychlorinated biphenyls above 1 part per billion previously authorized by the Administrator by rule. The Administrator may by rule authorize the manufacture, processing, distribution in commerce or use (or any combination of such activities) of ~~any~~ polychlorinated biphenyls above 1 part per billion in a manner other than in a totally enclosed manner if the Administrator finds that such manufacture, processing, distribution in commerce, or use (or combination of such activities) will not present an unreasonable risk of injury to health or the environment.

Jason Albritton
Senior Policy Advisor
Senate Committee on Environment and Public Works
Senator Barbara Boxer, Ranking Member
456 Dirksen Senate Office Building

Tel: 202-224-8832
Fax: 202-224-1273

Message

**From:** Vaught, Laura [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C30920BCB6214A91B7E3C1E7810C63E1-VAUGHT, LAURA]
**Sent:** 3/25/2015 3:59:52 PM
**To:** Zipkin, Adam (Booker) [Adam_Zipkin@booker.senate.gov]
**Subject:** Re: TSCA reform principles doc

Hi Adam - sorry it has been so hard to connect. Jim is on travel today/this week, but let me see what we can figure out.

Sent from my iPhone

On Mar 25, 2015, at 11:05 AM, Zipkin, Adam (Booker) <Adam_Zipkin@booker.senate.gov> wrote:

> Hi Laura. Attached is a draft red-line of the current Udall-Vitter bill that I am working on for my boss and other EPW Dems to present to Sens Udall/Vitter as containing the changes needed in order for these Senators to support the bill. Please treat as confidential. Things are moving quickly, is there any chance Mr. Jones and/or any other EPA staff could review and do a TA call with me this afternoon? The amount of changes are limited, and can be summarized as follows:
> 1. Preemption
>    - Consistent with existing law, timing of preemption for High Priority Chemicals is amended to occur at the implementation date of EPA action on a chemical (current bill has high priority preemption starting as soon as EPA starts reviewing a high priority chemical, rather than when EPA finishes).
> 2. Co-enforcement
>    - <!--[if !supportLists]--><!--[endif]-->Consistent with existing law, bill is amended to allow states to enact and co-enforce identical laws (current bill does not allow).
> 3. Judicial Review
>    - <!--[if !supportLists]--><!--[endif]-->Bill is amended to allow full judicial review of chemicals that EPA designates as low priority (current bill only allows states to challenge).
> 4. Articles (i.e. consumer products)
>    - <!--[if !supportLists]--><!--[endif]-->Bill is amended to delete out this newly inserted section which Mr. Jones testified is inconsistent with statement of administration priorities.
> 5. Animal Testing
>    - <!--[if !supportLists]--><!--[endif]-->Language is added to minimize animal testing where EPA Administrator determines scientifically reliable alternatives exist that would generate equivalent information.
> 6. Pre-emption of State Clean Air/Clean Water Laws
>    - <!--[if !supportLists]--><!--[endif]-->Language is tweaked to try to make clear that this pre-emption should not occur.
>
> **From:** Vaught, Laura [mailto:Vaught.Laura@epa.gov]
> **Sent:** Tuesday, March 24, 2015 11:13 AM
> **To:** Zipkin, Adam (Booker)
> **Subject:** RE: TSCA reform principles doc
> My morning is a little crazy – anything this afternoon that works?
>
> **From:** Zipkin, Adam (Booker) [mailto:Adam_Zipkin@booker.senate.gov]
> **Sent:** Monday, March 23, 2015 8:47 PM
> **To:** Vaught, Laura
> **Subject:** RE: TSCA reform principles doc
> Thanks Laura – I could do 10am or 11:30 if either of those work for you tmrw.
>
> **From:** Vaught, Laura [mailto:Vaught.Laura@epa.gov]
> **Sent:** Monday, March 23, 2015 5:24 PM